

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 06-3947 PJS/JSM

UNITED STATES OF AMERICA,)
Petitioner,)
v.)
ROGER DEAN TOM,)
Respondent.)

STIPULATION

Petitioner United States of America and Respondent Roger Dean Tom, through their undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, this action was initiated by the United States as a Petition to Determine Sexually Dangerous Person due for Release under 18 U.S.C. § 4248;

WHEREAS, in the interest of achieving a just, reasonable and efficient resolution to the matter, the parties now agree that Mr. Tom should be committed under 18 U.S.C. § 4246, relating to Hospitalization of a person due for release but suffering from mental disease or defect;

WHEREAS, the United States does not concede that it could not meet its burden of proof under 18 U.S.C. § 4248 at a hearing; and

WHEREAS, Mr. Tom does not concede that he would be found eligible for commitment at a hearing pursuant to 18 U.S.C. § 4248;

NOW THEREFORE, the parties agree that:

1. Respondent Roger Dean Tom is eligible for commitment pursuant to 18 U.S.C. § 4246. Specifically, Mr. Tom hereby agrees that:
 - (a) he currently suffers from a mental disease or defect;
 - (b) as a result of such mental disease or defect, his release would create a substantial risk of bodily injury to another person or serious damage to property of another; and
 - (c) suitable arrangements for State custody and care of Mr. Tom are not currently available;
2. the parties will make every reasonable effort to present to the Court a proposed order of commitment, along with the necessary supporting and accompanying documentation, within 60 days of the date of the last signature on this stipulation;
3. Mr. Tom may be examined by professional Bureau of Prisons (“BOP”) staff outside the presence of his counsel for the purpose of obtaining a suitable expert opinion in connection with this stipulation;
4. upon Mr. Tom’s anticipated commitment under 18 U.S.C. § 4246, (a) the United States will withdraw the pending petition in this matter filed under 18 U.S.C. § 4248, and (b) BOP officials currently responsible for Mr. Tom’s custody and care at the Federal Medical Center in Rochester, Minnesota will recommend that Mr. Tom be transferred to the Federal Medical Center in Butner, North Carolina (which will provide Mr. Tom with possible access to sex offender treatment); and

5. any future judicial proceedings in connection with this matter will be subject to the jurisdiction of this Court and no objection may be raised to venue in the District of Minnesota.

Dated: September 14, 2010

Signed:

B. TODD JONES
United States Attorney

s/ David W. Fuller
BY: DAVID W. FULLER
Assistant U.S. Attorney
Attorney ID Number 6271763
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5600
david.fuller@usdoj.gov

Attorneys for Petitioner

Dated: September 14, 2010

Signed:

KATHERIAN D. ROE
Federal Defender

s/ Caroline Durham
BY: CAROLINE DURHAM
Assistant Defender
Attorney ID Number 24921X
107 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5858
Caroline_Durham@fd.org

Attorneys for Respondent